

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ILSA SARA VIA, et al.,
Plaintiffs/Petitioners,
v.
JEFFERSON B. SESSIONS, et al.,
Defendants/Respondents.

Case No. 17-cv-03615-VC

ORDER RE FURTHER BRIEFING

There appears to be a reasonable argument not made by either side that the minors in this case did not meet the definition of "unaccompanied alien child" when they were rearrested, even if they met that definition when they entered the country and before ORR placed them with their parents. *See* 6 U.S.C. § 279(g)(2); *D.B. v. Cardall*, 826 F.3d 721, 744 (4th Cir. 2016) (Floyd, J. dissenting). If the minors are not "unaccompanied alien children," presumably the federal government erred in treating them as such (that is, by rearresting them on the basis of removability and putting them through a process administered by ORR that was designed for minors who were not yet accompanied by a parent or legal guardian). The parties are ordered to file supplemental briefs addressing the following questions:

(1) Why isn't the best reading of 6 U.S.C. § 279(g)(2) and 8 U.S.C. § 1232 that the minors in this case are no longer "unaccompanied alien children"?

(2) If the minors are no longer "unaccompanied alien children," presumably they and their families are entitled to the same process that would apply to other noncitizen minors who are re-detained by the federal government after having been released pending removal proceedings. Please explain the circumstances in which federal officers may re-detain an

accompanied noncitizen minor after a release determination has been made and the process by which the minor or his family can challenge that re-detention.

(3) If the court concludes that the minors are not "unaccompanied alien children," describe with specificity what the remedies should be in this case.

The government's supplemental brief is due by Thursday, November 2, 2017 at 9:00 a.m. The plaintiffs/petitioners' supplemental brief is due by 11:59 p.m. on Friday, November 3, 2017.

IT IS SO ORDERED.

Dated: October 30, 2017



VINCE CHHABRIA
United States District Judge